



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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May 1, 1973

Lieutenant General Wallace H. Robinson, Jr.
Director, Defense Supply Agency

Dear General Robinson:

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We refer to letter DSAH-G dated March 12, 1973, from the Assistant Counsel, Headquarters, Cameron Station, reporting on the request of ~~San Winer Motors, Inc. (Winer)~~ for relief from an error in bid alleged on item 21 of sales contract No. 11-3007-105.

The Defense Surplus Sales Office (DSSO), Philadelphia, Pennsylvania, by sales invitation No. 11-3007 requested bids for the purchase of various items, including item 21 which consisted of eighty-seven block-tackle snatches, unused, in fair condition, whose acquisition cost was \$8,800. The established current market appraisal for the equipment was \$15 per unit. The twenty-four bids received by bid opening on August 1, 1972, ranged from one dollar each to Winer's bid of \$46.95 per unit which was more than twice the amount of the next highest bid (\$22.222). On August 4, 1972, the contract for item 21 was awarded to Winer.

On August 8, 1972, Winer advised the sales contracting officer by telephone that a mistake had been made in the sale price since it had bid \$18.95 per unit. Prior to bid opening, by a telegram dated July 31, 1972, Winer made several bid modifications including an increase to be added to its original bid of \$15.95 per unit for item 21. The telegram delivered to DSSO showed an increase of \$31 per unit for item 21 rather than an increase of \$3.00 per unit alleged by Winer.

On August 9, 1972, a "Duplicate and Corrected" copy of Winer's original telegram of July 31, 1972, was received by DSSO correcting item 21 to show an increase of \$3.00 per unit. Western Union confirmed, by a letter dated August 14, 1972, that the original message given to the Akron, Ohio, office read "\$3.00" and that the error apparently occurred during its transmission.

Ordinarily, a wide range of bid prices received for surplus property is not sufficient to place a contracting officer on constructive notice of an error in the purchaser's bid. However, in this case, the increase of \$31.00 per unit resulted in nearly a 200-percent

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increase over Winer's original bid and the known appraisal value of each unit. When there has been a wide range of bids and the high bid has exceeded the current market appraisal by over 50 percent, our Office has held that the contracting officer should have been on notice of the probability of error and rescission of the sales contract was allowed. B-165568, November 21, 1958, and decisions cited therein.

Accordingly, since a bona fide mistake was made and the contracting officer was on constructive notice of error, sales contract item 21 should be rescinded without liability to Winer.

Sincerely yours,

Paul G. Dembling

For the Comptroller General
of the United States